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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
WORJLOH, JALATEE	
ART UNIT	PAPER NUMBER
3685	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/029,159	DEEDS ET AL.	
	Examiner	Art Unit	
	Jalatee Worjloh	3685	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *5-26-2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *35-47* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *35-47* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 26, 2009 has been entered.

2. Claims 35-47 are pending.

Response to Arguments

3. Applicants' arguments filed May 26, 2009 have been fully considered but they are not persuasive.

4. Applicants argue that "Shin teaches away from the claimed invention, in that independent Claims 35, 36, 39, 42, and 43 recite the selected content is presented upon each occurrence of a predefined condition associated with the selected content until the first locking requirement is met."

In response, the Examiner notes that the Office Action indicates that this feature is taught by Kontogouris.

5. Applicants argue that the stated motivation is opposite of the claimed invention.

The Examiner notes that KSR forecloses the argument that a specific teaching, suggestion, or motivation is required to support a finding of obviousness. See *KSR*, 127 S. Ct. at 1741, 82 USPQ2d at 1396.

6. Applicants argue that Kontogouris fails to teach "the selected content is presented upon each occurrence of a predefined condition associated with the selected content until the first locking requirement is met."

However, the Examiner respectfully disagrees. Kontogouris teaches a user subscribing to participate in an interactive banner advertisement system (see paragraph [0056]-the banner is the selected content). In one embodiment, whenever a user request a content, his amount of credits is checked. If the user does not have enough credits, he is presented the banner advertisement that is displayed until the locking requirement/condition is met (see paragraph [0060]). Thus, the banner advertisement, which is the selected content the user subscribed to view, is displayed until the condition is met.

Although, as expressed above, Kontogouris teaches the feature "the selected content is present upon each occurrence of a predefined condition associated with the selected content", Applicant is reminded that functional recitation(s) using the word "for" or other functional language (*e.g.* "such that ") have been considered but are given little patentable weight[1] because they fail to add any structural limitations and are thereby regarded as intended use language. A recitation of the intended use of the claimed product must result in a structural difference between the claimed product and the prior art in order to patentably distinguish the claimed product from the prior art. If the prior art structure is capable of performing the intended use, then it reads on the claimed limitation. *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) ("The manner or method in which such machine is to be utilized is not germane to the issue of patentability of the machine itself."); *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). See also

[1] See *e.g. In re Gulack*, 703 F.2d 1381, 217 USPQ 401, 404 (Fed. Cir. 1983)(stating that

MPEP §§ 2114 and 2115. Unless expressly noted otherwise by the Examiner, the claim interpretation principles in this paragraph apply to all examined claims currently pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 35-41, 43, 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Publication No. 2002/0010698 to Shin et al. ("Shin") in view of US Publication No. 2002/0092910 to Kontogouris.

Referring to claims 35, Shin discloses a content manager, said content manager configured to manage selected content (electronic document), the selected content selected from a plurality of content stored at a network based device and delivered to the apparatus, once delivered to the apparatus, management of the selected content provided by said content manager comprising selectably locking the selected content pursuant to a first selected locking requirement, the operation of determining when the at least the first selected locking requirement is met, the operation of unlocking the selected content data to release the selected content out of the first selected locking requirement having been met, unlocking the selected content when the first selected locking requirement is determined to have been met and receiving an indication of said at least first selected locking requirement having been met (see figs. 2A, 2B, 4, paragraphs

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0010, 0011, 0022-0025). Shin does not expressly disclose the selected content is presented upon each occurrence of a predefined condition associated with the selected content until the first selected locking requirement is met, such that the selected content is no longer required to be repeatedly presented and providing a reward in response to said indication. Kontogouris discloses the selected content is repeatedly presented until the first selected locking requirement is met and unlocking the selected content when the first selected locking requirement is determined to have been met such that the selected content is no longer required to be presented upon an occurrence of the predefined condition (see paragraph [0054] – the user inputs a request for access to a specific content; an interactive banner is displayed; if the user responds correctly to the interactive banner advertisement access is allowed. Otherwise, the banner will continue to display until the browser or communications program is exited; fig. 7 and paragraph [0060]), and providing a reward in response to said indication (see paragraph [0055], [0056]). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Shin to include the elements of taught by Kontogouris. One of ordinary skill in the art would have been motivated to do this because it prevents unauthorized access the locked content and conveniently provides incentives in a format suitable for mobile devices (see paragraph [0009] &[0010] of Kontogouris).

Referring to claims 36-38, Shin discloses receiving an indication of selected content, presenting at least a first locking requirement associated with the selected content to a user device wherein said locking requirement defines a specific period of time or a specified amount of usage for which the content is locked in at the user device and required to be presented and providing the selected content from a network based device to the user together with the at least

first selected locking requirement and receiving an indication of said at lest first selected locking requirement having been met (see figs. 2A, 2B, 4, paragraphs 0010, 0011, 0022, 0023, [0025]). Shin does not expressly disclose permitting the selected content to be presented upon each occurrence of a predefined condition associated with the selected content until the at least the first selected locking requirement is met and providing a reward in response to said indication. Kontogouris discloses permitting selected content to be presented upon each occurrence of a predefined condition associated with the selected content until the at least a first selected locking requirement is met (see paragraph [0054] – the user inputs a request for access to a specific content; an interactive banner is displayed; if the user responds correctly to the interactive banner advertisement access is allowed. Otherwise, the banner will continue to display until the browser or communications program is exited), providing a reward in response to an indication (see paragraphs [0055] & [0056]). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Shin to include the elements taught by Kontogouris. One of ordinary skill in the art would have been motivated to do this because it prevents unauthorized access the locked content.

Referring to claims 39 and 41, Shin discloses transmitting an indication of selected content, receiving at least a first locking requirement associated with the selected content at a user device, wherein said locking requirement associated with the selected content at a user device, wherein said locking requirement defines a specific period of time or a specified amount of usage for which the content is locked at the user device and required to be presented, selecting acceptance of the at least the first selected locking requirement, receiving said selected content and storing said selected content (see figs. 2A, 2B, 4, paragraphs 0010, 0011, 0022, 0023,

[0025]). Shin does not expressly disclose presenting the selected content with the user device upon each occurrence of a predefined condition associated with the selected content until at least the first selected locking requirement is met and receiving an indication of a reward. Kontogouris discloses permitting selected content to be presented upon each occurrence of a predefined condition associated with the selected content until the at least a first selected locking requirement is met (see paragraph [0054] – the user inputs a request for access to a specific content; an interactive banner is displayed; if the user responds correctly to the interactive banner advertisement access is allowed. Otherwise, the banner will continue to display until the browser or communications program is exited; fig. 7 & paragraph [0060]) and receiving an indication of a reward (see paragraphs [0055] & [0056]). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Shin to include the elements taught by Kontogouris. One of ordinary skill in the art would have been motivated to do this because it prevents unauthorized access the locked content and conveniently provides incentives in a format suitable for mobile devices (see paragraph [0009] &[0010] of Kontogouris).

Referring to claim 40, Shin discloses the operation of determining when the at least the first selected locking requirement is met (see fig. 2A, 2B, 4, paragraphs 0010, 0011, 0022, 0023) and the operation of unlocking the selected content data to release the selected content out of the first selected locking requirement having been met (see paragraphs 0023-0025).

Referring to claims 43-46, Shin discloses transmitting an indication of selection of content from a plurality of content to form selected content, receiving at least one locking requirement including a first locking requirement associated with the selected content, selecting acceptance of at least the first locking requirement in response to receiving the at least one

locking requirement, receiving said selected content and storing said selected content following selection of the content and at least the first locking requirement, operating upon the selected content in accordance with the at least the first locking selected requirement, determining when the first locking requirement is met, notifying a network based device when the first selected locking requirement is met, unlocking, when the first selected requirement is met the selected content data to release the selected content out of the first selected locking requirement (see fig. 2A, 2B, 4, paragraphs [0010], [0011], [0022], and [0023]). Shin does not expressly disclose presenting the selected content upon each occurrence of a predefined condition associated with the selected content or dispensing a reward or the selected content of the plurality of content comprises advertising content and wherein said method further comprises the operation of displaying the advertising according to the at least the first selected locking requirement, wherein the at least the first selected locking requirement difnes a manner by which to display the advertising content in human perceptible form;. Kontogouris discloses these features (see paragraphs [0054]- [0056], [0060] & fig. 7). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method taught by Shin to include the elements of Kontogouris. One of ordinary skill in the art would have been motivated to do this because it prevents unauthorized access the locked content and conveniently provides incentives in a format suitable for mobile devices (see paragraph [0009] &[0010] of Kontogouris).

3. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shin and Kontogouris in view of US Publication No. 2004/0123135 to Goddard.

Shin discloses a content manager configured to receive and manage the selected content, wherein said management comprises locking in said selected content pursuant to a first locking requirement (see figs. 2A, 2B, 4, paragraphs 0010, 0011, 0022, and 0023). Shin does not expressly disclose the selected content is presented upon each occurrence of a predefined condition associated with the selected content until the first locking requirement is met and a memory configured to store a plurality of profiles wherein each profile comprises an identifier indicative of the use of said locked in selected content. Kontogouris discloses selected content is presented upon each occurrence of a predefined condition associated with the selected content until the first locking requirement is met (see paragraph [0054] – the user inputs a request for access to a specific content; an interactive banner is displayed; if the user responds correctly to the interactive banner advertisement access is allowed. Otherwise, the banner will continue to display until the browser or communications program is exited; paragraph [0060] & fig. 7). Goddard discloses memory for storing a plurality of profiles wherein each profile comprises an identifier indicative of the use of said locked in selected content (see fig. 5, paragraph [0049] & [0052]). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Shin to include the elements taught by Kontogouris and Goddard. One of ordinary skill in the art would have been motivated to do this because it prevents unauthorized access the locked content.

4. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shin and Kontogouris as applied to claim 45 above, and further in view of U.S. Publication No. 2006/0183097 to Ishii.

Shin discloses the selected content (see claim 45 above). Shin does not expressly disclose the selected content is a ring tune advertisement and wherein presenting the selected content with the user device upon each occurrence of a predefined condition associated with the selected content comprises presenting the selected ring tune advertisement upon each receipt of an incoming call. Kontogouris discloses advertisements and presenting selected content with the user device upon each occurrence of a predefined condition associated with the selected content (see claim 45 above). Ishii discloses presenting ring tones as advertisements upon a receipt of an incoming call (see paragraph [0003] & [00174]). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method disclose by Shin to include the missing elements. One of ordinary skill in the art would have been motivated to do this because it promotes the music data to the public (see paragraph [0003] of Ishii).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jalatee Worjloh whose telephone number is 571-272-6714. The examiner can normally be reached on Monday - Friday 10:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin Hewitt II can be reached on 571-272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for regular communications and 571-273-6714 for Non-Official /Draft.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jalatee Worjloh/
Primary Examiner, Art Unit 3685